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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,781	12/08/2005	Maartje Ouwendijk-Vrijenhoek	C4314(C)	8036

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EXAMINER	
DELCOTTO, GREGORY R	

ART UNIT	PAPER NUMBER
1796	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/559,781	OUWENDIJK-VRIJENHOEK ET AL.	
	Examiner	Art Unit	
	Gregory R. Del Cotto	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) *17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16 and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/13/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-18 are pending. The preliminary amendment filed 6/13/08 has been entered.

Applicant's election without traverse of Group I, claims 1-16 and 18 in the reply filed on 6/13/08 is acknowledged.

Claim 17 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/13/08.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action mailed 3/18/08 have been withdrawn:

None.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

> granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO02/072747 in view of Baker et al (US 2002/0082188) or Velazquez et al (US 6,458,754).

'747 teaches a bleaching composition which provides a bleaching composition comprising an organic ligand which forms a complex with a transition metal for bleaching a substrate with a group selected from atmospheric oxygen together with a surfactant having an allylic hydrogen and an antioxidant. See page 2, lines 1-15. The antioxidant is present in amounts from 0.001% to about 5% by weight and includes 2, 6-di-tert-butyl-4-methyl phenol, ascorbic acid, etc. See page 9, lines 10-30. The composition may be in the form of a powder, granule, past, gel, liquid. See page 25, lines 1-5 and page 27, lines 10-15. Note that, formulation A of '747, which is a liquid, contains a perfume in an amount of 0.47% by weight. See page 33, lines 1-20.

'747 does not teach the use of a aldehyde perfume or a composition containing a transition metal bleach catalyst, a aldehyde perfume, an antioxidant, and the other

requisite components of the composition in the specific amounts as recited by the instant claims.

Baker et al teach compositions for treating shoes containing various components. See Abstract. Suitable benefit agents include perfumes such as lilial, etc., in amounts from 0.001% to 0.5% by weight. See para. 430-436.

Velazquez et al teach modified starch encapsulated perfume particles which consist of a modified starch and perfume oil encapsulated by the starch. The encapsulated perfume particles are particularly useful in laundry compositions. See Abstract. The laundry compositions contain from about 0.01% to 50% of a perfume particle. See column 2, lines 35-60. Suitable perfume oils include an oil which contains 5% by weight of Lilial, 5% by weight of Damascenone, etc. See column 5, line 55 to column 6, line 10.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a ketone such as lilial in the composition taught by '747, with a reasonable expectation of success, because Velazquez et al or Baker et al teach the use of lilial in a similar cleaning composition and further, '747 teaches the use of perfumes in general.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a transition metal bleach catalyst, a aldehyde perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components,

because the broad teachings of '747 in combination with Velazquez et al or Baker et al suggest a composition containing a transition metal bleach catalyst, a aldehyde perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Claims 1-7, 9-14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/52124 in view of Severns et al (6,184,188) or Baker et al (US 2002/0082188).

'124 teaches a bleaching and laundry composition which contains a catalytically effective amount of a transition metal bleach catalyst, an antioxidant and carriers and adjunct ingredients wherein the composition is substantially free of peroxygen compounds. See Abstract. Antioxidants are used in amounts from 0.01% to about 5% by weight and include 2,6-di-tert-butyl-4-methylphenol, etc. See page 12, lines 1-20.

'747 does not teach the use of an aldehyde perfume or a composition containing a transition metal bleach catalyst, an aldehyde perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Velazquez et al and Baker et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use an aldehyde such as lilial in the composition taught by "124, with a reasonable expectation of success, because Velazquez et al or Baker et al teach the use of lilial in a similar cleaning composition and further, '747 teaches the use adjunct ingredients which would encompass perfume materials since perfumes are

conventionally used in laundry detergent compositions and notoriously well-know to those of ordinary skill in the art.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a transition metal bleach catalyst, an aldehyde perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '124 in combination with Velazquez et al or Baker et al suggest a composition containing a transition metal bleach catalyst, an aldehyde perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/52124 in view of Severns et al (6,184,188) or Baker et al (US 2002/0082188) as applied to claims 1-7, 9-14, 16, and 18 above, and further in view of WO02/072747.

'124, Baker et al, and Velazquez et al are relied upon as set forth above. However, none of the references teach the use of ascorbic acid in addition to the other requisite components of the composition as recited by the instant claims.

'747 is relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use ascorbic acid in the composition taught by '124, with a reasonable expectation of success, because '747 teaches the equivalence of ascorbic

acid to 2,6-di-tert-butyl-4-methylphenol as an antioxidant in a similar composition and further, '124 teaches the use of 2,6-di-tert-butyl-4-methylphenol.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO98/39406.

'406 teaches laundry or cleaning composition containing a catalytically effective amount of a transition metal bleach catalyst and at least about 0.1% of one or more laundry or cleaning adjunct materials. See Abstract. In preferred embodiments, the compositions contain 0.1% of a primary oxidant and at least about 0.001% of a bleach-promoting adjunct. See page 21, lines 1-20. Antioxidants may be in the compositions such as 2,6-di-tert-butyl-4-hydroxytoluene, ascorbic acid, etc. See page 88, lines 1-30. The compositions may be in any form such as a liquid, granular, tablet, etc. See page 134, lines 30-35. Perfumes may also be used in the compositions including ketones, aldehydes, etc. Finished perfumes typically comprise from about 0.01% to about 2% by weight of the detergent compositions and individual perfumery ingredients can comprise from about 0.0001% to about 90% of a finished perfume composition. See page 130, line 30 to page 131, line 5.

'406 does not teach a composition containing a transition metal bleach catalyst, an aldehyde perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a transition metal bleach catalyst, an aldehyde perfume, an antioxidant, and the other requisite components of

the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '406 suggest a composition containing a transition metal bleach catalyst, an aldehyde perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO98/39406 as applied to claims 1-15 above, and further in view of Baker et al (6,184,188) or Velazquez et al (US 6,458,754).

'406 are relied upon as set forth above. However, '406 does not teach the use of an aldehyde such as lilial in addition to the other requisite components of the composition as recited by the instant claims.

Velazquez et al and Baker et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use an aldehyde such as lilial in the composition taught by '406, with a reasonable expectation of success, because Velazquez et al or Baker et al teach the use of lilial in a similar cleaning composition and further, '406 teaches the use of aldehyde perfume ingredients in general.

Response to Arguments

With respect to the rejection under 35 USC 103 using WO02/072747 in view of Baker or Velazquez, WO00/52124 in view of Severns et al or Baker, or WO98/39406, Applicant states that one of ordinary skill in the art, who has not had the benefit of

hindsight afforded by the present disclosure, would not have been motivated by the combined teaching of WO '747 in view of Baker or Velazquez, WO '124 in view of Severns or Baker, or WO '406 to arrive at the claimed invention. Additionally, Applicant states that the combination of any one of the primary references with US '754 would not have occurred to one of ordinary skill in the art because US '754 teaches encapsulating perfumes and it is not seen how one of ordinary skill in the art would have been let to incorporate perfumes of US '754, especially specific perfume that contains at least a certain amount of aldehydic perfume into detergent compositions while leaving out the encapsulation as taught by US '754.

In response, note that, the Examiner maintains that US '754 are analogous prior art relative to WO '747, WO '124, or WO '406 and that one of ordinary skill in the art clearly would look to the teachings of US '754 to cure the deficiencies of WO '747, WO '124, or WO '406. US '754 is a secondary reference relied upon for it teaching of aldehydes as perfumes suitable for cleaning compositions wherein the use of perfumes in cleaning compositions is common and notoriously well-known to those of ordinary skill in the art. The Examiner maintains that one of ordinary skill in the art clearly would have been motivated to use an aldehyde such as lilial in the composition taught by WO '747, WO '124, or WO '406 with a reasonable expectation of success, because Velazquez et al or Baker et al teach the use of lilial in a similar cleaning composition and further, WO '747, WO '124, or WO '406 teach the use of perfumes in general. Furthermore, note that, the instant claims recite "comprising" and would not exclude the use of other perfumes in admixture with the aldehydes as taught by Baker et al and

Velazquez et al or the use of an encapsulating agent as taught by Velazquez et al. Further, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571)

272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory R. Del Cotto/
Primary Examiner, Art Unit 1796

/G. R. D./
September 30, 2008